

# Memo

To: John Albers ALJ  
William Showtis, ALJ  
From: Todd Lesser, President of North County Communications  
Date: February 26, 2003  
Subject: Status Hearing on February 25, 2003

Given your order that NCC produce its "business plan" documentation, I am compelled to write to you with both my concerns about turning this kind of information over to Verizon and my views as to why Verizon is even professing to be entitled to it. I apologize if I am exceeding the bounds of normal protocol, but in light of what NCC has been through this past year, I beg your indulgence and ask that you consider the following variables before deciding what, if any, business planning information should be revealed.

First, I wish to reiterate what I believe has been communicated to you by my counsel. Mr. Dicks. NCC is a very small company with a handful employees. There is no board, committee or outside investors making decisions regarding marketing plans; no board, committee or outside investors making decisions regarding where or how to spend company resources; and nobody, besides me and my attorney's, deciding on company strategy. As a consequence, I rarely, if ever, draft memos to myself and never do I prepare formal or informal written business plans. Decisions are made, by me and me alone, after consultation with counsel. Those decisions are then implemented, without fanfare, as my personal time and resources allow and as my 18 plus years in the business lead me to believe is the most prudent path to take. Therefore, I would like to take you through my thought process as I made my decisions, faced with the many obstacles that Verizon placed before me.

On June 3, 2000, I requested that my attorney David Klein start the process for CLEC certification in Ill. On January 29, 2001, Verizon informed me that "Typically, you would need to establish interconnection trunking directly to Verizon when you have opened codes in and around Verizon territory . . . this insures that calls are routed and completed correctly, especially when Verizon tandem locations are involved."<sup>1</sup> On December 7, 2001, after Verizon had informed NCC that it had

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<sup>1</sup> The situation in Illinois is not unique. In West Virginia, Verizon REQUIRED North County to get a separate T1 trunk group to cover the traffic going and coming from every tandem in the Charleston LAT. This included the Summerville tandem and all its subtending central offices. This specifically included the central office located in Clay, West Virginia - population of 592 people and served by Citizens Utilities but subtending the Verizon Summerville tandem. This is exactly same way that Leaf River Telephone company subtends the De Kalb tandem. Verizon does just the opposite in areas where they don't have a tandem. For example in Los Gatos, California, (where Verizon is the equivalent of the "Leaf River ILEC"), Verizon's central office subtends the Pacific Bell San Jose tandem. Verizon requires that CLEC's interconnect with Pacific Bell to carry the traffic to and from Los Gatos. To quote an e-mail dated January 29th, 2001 from Bill Casey of Verizon who handled interconnection in California for North County before Diann McKernan, "Todd. Typically you would need to establish interconnection

a "policy" in West Virginia requiring a dedicated fiber build, and refusing to interconnect at any technically feasible point as required by the telecom act in order to interconnect with a CLEC so requesting, and knowing a Verizon tandem was going to be involved in NCC's request to interconnect in DeKalb, Ill., I sent Verizon an e-mail. In that e-mail, I advised that NCC wanted to interconnect with the Verizon tandem, DKLBI, XA50T, and route calls to and from the Leaf River rate center. In that e-mail inquired if Verizon was going to insist on following the above policy. In response, on December 13th, 2001, I received an unqualified "yes". Verizon never mentioned any concerns over NCC ordering a Leaf River rate center prefix from the North American Numbering Plan Administrator ("NANPA").

On January 31, 2002, I contacted Bob Coke (sp?) at the Illinois Commerce Commission expressing concern over the delay and expense that would be caused by Verizon's "policy". I asked his advice on how to proceed, and out of an expressed concern that Verizon might be taking advantage of the Rate of Return regulations, advised that I request an expedited hearing on any complaint that NCC might file.

On Feb 15, 2002, NCC filed its complaint before the Ill. PUC. (I caused this suit to be filed suite based on the advice of Bob Coke (sp?), because once I found out that Verizon was on Rate of Return regulation and figured out that not only were they going to be anti-competitive and keep me out of the market, they were going to commit fraud against the rate payers by billing the cost of this unnecessary fiber build to the consumers of Illinois. In West Virginia, where NCC challenged this policy as well, our expert estimated the cost of the fiber build was between six hundred thousand and a million dollars.)

On February 19, 2002, Verizon answered NCC's complaint, and for the first time, raised the argument that as they were not the ILEC in Leaf River, Verizon had no obligation to interconnect with NCC at that location. Apparently, Verizon was confused, as NCC never requested interconnection in Leaf River. NCC only requested interconnection in DeKalb. In addition, on Feb. 25, 2002, I reminded Verizon that NCC intended to serve DeKalb as well as Leaf River, and that is why DeKalb was chosen as the interconnection point. In any event, now that Verizon was being sued in connection with its unlawful policy, Verizon agreed to interconnect at the DeKalb tandem, knowing full well, based on both of our ASRs that NCC was only able to order a Leaf River prefix in the Sterling LATA. It is common practice in the industry for a CLEC to order prefixes in all rate centers in the LATA served by its switch. Proof of this fact is the prefix shortage. NCC applied for prefixes in DeKalb and Leaf River, but due to the prefix shortage, caused by other CLECs ordering prefixes in all of the rate centers in the LATA, NCC was given only a Leaf River prefix, and was denied a DeKalb prefix.

If Verizon genuinely believed that it had no obligation to interconnect with NCC and route the Leaf River exchange prefix, Verizon would have refused NCC's interconnection request. In short, there is no valid reasoning behind Verizon's argument that they are not the ILEC where NCC interconnects with them. There is therefore no valid reason why Verizon should have any of NCC's internal documents regarding its business plans in Illinois, even though those "plans" are crude and informal memos and e-mails.

Verizon is correct about one thing. That is, NCC is not currently serving De Kalb. Verizon's attempt to stop North County from competing with them has worked. NCC is a small company. We have only a handful of employees. Verizon has forced us to cut payroll and completely stop marketing our service because we have spent hundreds of thousands of dollars in legal fees just to

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trunking directly to Verizon when you have opened codes in and around Verizon territory... The situation in Northern California is unique (spelling error) in that the Verizon offices in that area subend a Pacific Bell Tandem location... "

get into their markets, and continue to have to spend tens of thousands of dollars ever month. I have not attempted to get into the lottery again because there is a prefix shortage and NCC does not have the resources to support those additional prefix implementation obligations. Failing to utilize the additional prefixes would result in NCC having to give them back to the North American Numbering Plan Administrator because they were unused.

The e-mails and memos attached are identified in the lower right hand corner in an attempt to correspond to the Verizon documents requests. In some instances the requests overlap. I hope this does not cause any confusion. I also hope that after reviewing this documentation, you will decide that NCC is entitled to protect its plans for the Illinois market, however meager, crude and informal they are.

The question that should be asked is not what is North County's business plan, but why does Verizon really want it? The answer to that question lies in the conclusion drawn by the staff expert for the West Virginia Public Services Commission in the action filed by NCC in that jurisdiction over the very same issues, that Verizon has, "Used their monopoly status to keep North County out of the market" (See West Virginia PUC Staffmember Danny Walker filed testimony in West Virginia).

North County is not asking for damages - something that might entitle Verizon to see our business plan to calculate potential damages. NCC is only asking that the Commission issue a ruling prohibiting Verizon from continuing this illegal policy and to simply have Verizon reimburse North County for the legal bills it has forced North County to incur in order protect itself and the rate payers in Illinois.

